IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

RCRev..No. 229 of 2007()
---

RCA.69/2006 of II ADDL.DISTRICT COURT,ERNAKULAM
RCP.26/2005 of ADDL.MUNSIFF COURT,KOCHI
.....

REVISION PETITIONER/APPELLANT:

K.A.SURESH, AGED 33 YEARS, S/O.AYYAPPAN,
DOOR NO.7/284, NEAR KOCHAMBALAM,
(S.S.SABHA), NAYARAMBALAM P.O., PIN - 682509.

BY ADV. SRI.P.FAZIL
SRI.SREEJITH V.S.

RESPONDENT/RESPONDENT:

RADHA, AGED 70 YEARS, D/O.SANKARAN,
PANAKKAPARAMBIL, NAYARAMBALAM MURI,
NAYARAMBALAM VILLAGE, KOCHI TALUK.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 18/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

---

R.C.R.No. 229 of 2007

---

**ORDER**

Balachandran, J.

The petitioner is the tenant in R.C.P.No.26/05 on the file of the Rent Control Court, Kochi. The respondent filed the said RCP for eviction of the petitioner under Sections 11(2)(b) and 11(3) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as 'the Act'). Eviction was ordered by the Rent Control Court finding both the grounds in favour of the landlady. The appeal filed by the petitioner/tenant as R.C.A.No.69/06 before the Rent Control Appellate Authority, Ernakulam was dismissed concurring with the findings of the Rent Control Court on the grounds falling under Sections 11(2)(b) and 11(3) of the Act.It is against the concurrent orders of eviction so passed under Sections 11(2)(b) and 11(3) of the Act that the petitioner/tenant has preferred this

revision.

2. Strenuous attempts were made by the learned counsel for the petitioner to contend that the authorities below have erred in appreciating the evidence in the proper perspective and that therefore, on a proper evaluation of the evidence, this Court will be able to come to a different conclusion. May be that, on the available evidence, this Court may be able to arrive at a different conclusion. But, that is no ground for this Court to interfere in the concurrent orders of eviction passed under Sections 11(2)(b) and 11(3) of the Act in this revision, as the findings are not vitiated by illegality, impropriety or irregularity.

3. Finally, it is urged by the counsel for the petitioner that some time be granted to the petitioner to surrender vacant possession of the scheduled building to the respondent/landlady. The request so made deserves to be considered favourably.

In the result, we dismiss this Rent Control Revision. At the same time, we grant the petitioner time till 31.12.2007 to surrender vacant possession of the scheduled building to the respondent/ landlady on the following conditions:

i. that he shall deposit the entire arrears of rent, if any, in the execution court with a detailed statement as to its correctness within three weeks from today.

ii. that he shall file an affidavit before the execution court within one month from today, reporting that all arrears of rent are cleared and unconditionally undertaking that he will surrender vacant possession of the scheduled building to the respondent/landlady positively on or before 31.12.2007 and that he will continue to pay the monthly rents on the due dates itself till he actually surrenders vacant possession of the scheduled building to the respondent/landlady and

iii. that in case the petitioner fails to

comply with the above conditions, he shall not be entitled to the benefit of continuing in occupation of the scheduled building till 31.12.2007 and shall be liable to be evicted immediately on the expiry of the aforesaid one month in execution of the order of eviction passed against him.

Registry shall communicate a copy of this order to the respondent/landlady at the expense of the petitioner, as we are disposing of this revision at the admission stage itself, without issuing notice to the respondent/landlady.

(J.B.Koshy, Judge)

18th July, 2007

(K.P.Balachandran, Judge)

tkv